

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. The petitioner is the grandmother of K.B. who is six years old. K.B. lives in the petitioner's household and

is presently in kindergarten. Petitioner has cared for K.B. the majority of K.B.'s life. Petitioner is the one adult constant in K.B.'s life.

3. P.B. is petitioner's son and K.B.'s father. P.B. was incarcerated for several years. During this period, petitioner received RUFA and Medicaid benefits for K.B.

4. After P.B. was released, he became a member of petitioner's household on or about January 2009. Petitioner reported to the Department that P.B. was living with her. At that point, petitioner no longer received RUFA assistance and Medicaid on behalf of K.B. Instead, P.B. and K.B. became eligible for RUFA and Medicaid assistance as a separate household although they lived with petitioner.

5. P.B. received a lump sum settlement. P.B.'s benefits were closed by the Department effective July 31, 2009 because P.B. did not comply with the lump sum rules and verification.

6. A.C. is an eligibility benefits specialist with the Department. On or about August 14, 2009, A.C. conducted a telephone review with petitioner. Petitioner informed A.C. that she wanted RUFA and Medicaid benefits for K.B. They made an appointment to meet on August 20, 2009.

7. On or about August 15, 2009, the petitioner signed a written application for benefits. Petitioner indicated that K.B.'s parents did not live with K.B.

8. On or about August 20, 2009, the petitioner completed referral paperwork for the Office of Child Support. Petitioner wrote that P.B. lived in Greelyville, South Carolina. Petitioner has a sister who lives in Greelyville, South Carolina. A street address was not given.

9. A.C. was concerned about the closeness in time between the Department closing P.B.'s RUFA benefits and the petitioner's application on behalf of her granddaughter and was concerned by the lack of an address for P.B. A.C. referred the case for further verification.

10. G.S. was assigned by the Department to investigate the petitioner's application. G.S. is a retired law enforcement officer and has been part of the Department's fraud unit since June 2009. He was asked to investigate whether P.B. was still in the petitioner's household.

11. G.S. testified regarding his activities. G.S. contacted petitioner's mother, D.R., who runs a daycare in petitioner's community. G.S. testified that D.R. told him that petitioner, P.B., and K.B. lived together.

G.S. testified that he called the telephone number for petitioner's sister in Greelyville, South Carolina, and asked to speak to P.B. G.S. was told he had the wrong number.

G.S. testified that he went to petitioner's apartment on August 27, 2009 to check the location. Petitioner lives above a gas station/convenience store. G.S. testified that he returned on September 1, 2009 and saw two young men leave the apartment. G.S. stated he went into the store and asked the clerk whether petitioner or P.B. was home and was told that petitioner was at work but P.B. was home.

As part of his investigation, G.S. did not speak to petitioner nor did he visit petitioner's apartment.

12. G.B. submitted his findings to his supervisor. The Department made a decision that P.B. was still in petitioner's household.

13. On or about September 2, 2009, the Department sent petitioner a Notice of Decision denying RUFA eligibility because there were no eligible children in the household and denying Medicaid for K.B.

14. Petitioner filed a request for fair hearing with the Board on or about October 2, 2009. A fair hearing was held on October 15, 2009.

15. The petitioner testified at hearing. The petitioner has been caring for K.B. for five years and is presently seeking guardianship of K.B. The petitioner has been and is K.B.'s primary caregiver including the period P.B. received RUFA for K.B.

The petitioner stated that P.B. moved in with her around December 2008 and that she reported this to her caseworker. Because P.B. is K.B.'s father, he applied for assistance and received RUFA and Medicaid for K.B. and himself. P.B.'s eligibility came to an end after receiving a settlement from a lawsuit and not complying with the Department regulations governing lump sums.

The petitioner testified that P.B. married K.B.'s mother during January 2009 but that their relationship has been troubled and that P.B. has needed time alone. Petitioner explained that P.B. went to her sister's in South Carolina for a visit because he needed time to deal with the problems in his marriage. She explained that P.B. just recently started a relationship with his biological father who has not been part of P.B.'s life in the past. Petitioner testified that P.B. was with his father for the three weeks before the hearing.

The petitioner testified that P.B. visits K.B. at petitioner's home and that he is welcome to visit K.B. at any time. The petitioner testified that P.B. does not live with her full-time.

The petitioner could not give a clear chronology of P.B.'s whereabouts or an alternative address.

16. D.M. testified on petitioner's behalf. D.M. is petitioner's friend and sees petitioner about twice per week. She testified that she has not seen P.B. in the past month and that P.B. is spending a lot of time with his father.

17. D.R. testified by telephone and first stated that P.B. was not living with petitioner. She testified that P.B. was in and out of petitioner's household and was in South Carolina a little bit. D.R. does not think P.B. is stable enough to care for K.B. On cross-examination, she admitted she told G.S. that P.B. lived with petitioner.

ORDER

The Department's decision to deny RUFA and Medicaid eligibility is affirmed.

REASONS

The petitioner seeks RUFA and Medicaid eligibility for a household composed of herself and her granddaughter, K.B. The eligibility criteria for the RUFA program is found in W.A.M. §§ 2200 *et seq.* A key component is whether the applicant can show that she meets the criteria for an eligible assistance group.

An assistance group is defined at W.A.M. § 2240 as:

. . .one or more individuals whose requirements, income, and resources are considered as a unit to determine need for financial assistance.

A Reach Up assistance group must include one or more eligible dependent children. In addition, the assistance group must include all siblings, including half-siblings, living with the dependent child or children and qualifying under the age criteria, as defined in policy. A parent must be included in the assistance group if the parent lives in the home with a child included with the assistance group.

The words of the regulation govern. For petitioner to qualify as an assistance group with K.B., she must show that P.B. is not part of her household. Petitioner's role as her granddaughter's caretaker is not sufficient unless P.B. is no longer living in her household.

Until July 31, 2009, P.B. and K.B. were a RUFA assistance unit. Their eligibility ended because P.B. did not comply with the RUFA regulations governing lump sum

settlements and verification requirements. Under the lump sum rules, ineligibility continues for a period of time.

Two weeks after P.B.'s RUFA eligibility ended, petitioner applied as a separate assistance unit with K.B. Given the timing, the Department questioned whether P.B. still lived with petitioner and decided to investigate.

The Department's investigation raised legitimate questions. They were unable to verify that P.B. was in Greelyville, South Carolina at the telephone number supplied by petitioner. Petitioner's mother indicated to the investigator that P.B., her grandson, was still in the petitioner's household. The evidence pointed to P.B. as being part of the petitioner's household.

Petitioner was not able to provide evidence at hearing to rebut the Department's evidence. The evidence was vague. There was no evidence of P.B. living elsewhere such as a lease, rental payment records, mail records, etc. or testimony from P.B. and others who could verify his address.

Although the result is harsh for K.B., the regulations govern. There is insufficient evidence to show that petitioner meets the eligibility criteria as an assistance group.

Petitioner can reapply in the future if she can provide evidence that P.B. has set up a residence elsewhere through appropriate records (lease, rent receipts, mailing address) or verification (testimony from P.B. and others).

In terms of Medicaid, K.B.'s eligibility as a minor child is tied to her eligibility for RUFA. W.A.M. §§ 4300 and 4343. Since K.B. is not part of a RUFA assistance group, she does not qualify. The only other way to qualify for Medicaid is to show that the applicant is aged, blind or disabled. W.A.M. §§ 4200 *et seq.* Petitioner did not make a disability claim on behalf of K.B. In the meantime, petitioner can ask for general assistance in the event there is an emergency medical need for K.B.

Based on the foregoing, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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